



Happy Valentine's Day

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"Tip of the Month"

New USPTO Fee Schedule - Timing Considerations

The US Patent and Trademark Office (USPTO) recently published a fee schedule that will take effect on March 19, 2013. Some fees are going up; some fees are going down. The new fee schedule raises questions for some patent applicants about when to complete a given phase of the patent application process and for some patent owners about when to pay a maintenance fee.

One significant fee change is the addition of a new "micro entity" status that provides 75% reduction in most fees compared to the large entity fee amount. Currently, applicants pay USPTO fees based on being classified either a large entity or a small entity. Small entity status generally means an entity with fewer than 500 employees. Small entities enjoy a 50% fee reduction in most USPTO fees compared to standard large entity fees. With the new fee schedule, applicants that qualify as a micro entity will enjoy a 75% reduction in fees compared to the standard "large entity" fees.

An applicant may qualify for micro entity status in two ways. The first way to qualify requires the applicant to (1) qualify as a small entity, (2) not be named as an inventor on more than four previously filed patent applications, (3) have gross income for the preceding year not be greater than three times the median household income as defined by the IRS (currently \$150,162 as of 2011), **and** (4) have not assigned, granted, or conveyed a license or ownership interest in the invention to an entity with an income exceeding the limits in (3).

The other way to qualify as a micro entity is as follows: (1) the majority of the applicant's income to come from employment at an institution of higher education (e.g., university), **or** (2) the applicant has assigned, granted, or conveyed a license or ownership interest in the invention to an institution of higher education.

Other significant fee changes include an increase in the total application filing fees. For example, utility patent application fees for large entities will increase almost 30% from \$1,260 to \$1,600.

Another significant change is an increase in patent maintenance fees, which increases are in the range of 24% to 54% depending on which one is due.

In addition to timing of fee payment, applicants are also reminded of the first-to-file provision of the America Invents Act that takes effect on March 16, 2013. This is especially important for those applications having a long period of development. The applicant will no longer be able to show a prior date of invention to eliminate relevant prior art cited against the patentability of applicant's invention.

For more information about upcoming fee changes and other intellectual property matters, please contact the attorneys at Mesmer & Deleault by calling (603) 668-1971, sending an email to mailbox@biz-patlaw.com, or visiting our website at <http://www.biz-patlaw.com>.

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